

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO  
4 PLAINTIFF(S): \_\_\_\_\_

5 MARGARITA G. HERRERA

6 Plaintiffs

7 v.

- 8 ☒ AMYLIN PHARMACEUTICALS, LLC,  
9 ☒ ELI LILLY AND COMPANY,  
10 ☒ MERCK SHARP & DOHME CORP.,  
11 ☐ NOVO NORDISK INC.,

12 (Check all the above that apply)

13 Defendants

Pertains To Civil Action No.:  
\_\_\_\_\_

In Re: Incretin-Based Therapies  
Products Liability Litigation

**MDL NO. 2452**

**SHORT FORM COMPLAINT  
FOR DAMAGES**

**JURY DEMAND**

Case No.: 13md2452 AJB(MDD)

14 **SHORT FORM COMPLAINT FOR DAMAGES**

15 COMES NOW the Plaintiff(s) named herein, and for Complaint against the  
16 Defendants named herein, incorporates and fully adopts the Master Form Complaint  
17 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows  
18 the Court as follows:

19 **JURISDICTION AND VENUE**

- 20 1. Jurisdiction in this Complaint is based on:

21 ☒ Diversity of Citizenship

22 ☐ Other (As set forth below, the basis of any additional ground for  
23 jurisdiction must be pleaded in sufficient detail as required by the  
24 applicable Federal Rules of Civil Procedure):

- 25 \_\_\_\_\_  
26 2. District Court and Division in which you might have otherwise filed  
27 absent the direct filing order entered by this Court: United States District Court,  
28 Southern District of California

1           3.     Plaintiff(s) further adopts the allegations contained in the following  
2 paragraphs of the Jurisdiction and Venue section of the Master Complaint:

3           ☒ Paragraph 10;

4           ☒ Paragraph 11;

5           ☒ Paragraph 12;

6           ☒ Paragraph 13;

7           ☒ Paragraph 14;

8           ☒ Paragraph 15; and/or

9           ☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail  
10 in numbered paragraphs (numbered to begin with 3(a)) as required by the  
11 applicable Federal Rules of Civil Procedure): \_\_\_\_\_

12 \_\_\_\_\_  
13 **PLAINTIFF/INJURED PARTY INFORMATION**

14           4.     Injured/Deceased Party's Name: MARGARITA G. HERRERA  
15 (the "Injured Party").

16           5.     Any injury (or injuries) suffered by the Injured Party in addition to  
17 those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to  
18 have been caused by the drug(s) ingested as set forth below (put "None" if  
19 applicable): None

20           6.     Injured Party's spouse or other party making loss of consortium claim:  
21 Not applicable

22           7.     Other Plaintiff(s) and capacity, if Injured Party is deceased or  
23 otherwise incapacitated (i.e., administrator, executor, guardian, representative,  
24 conservator, successor in interest): \_\_\_\_\_

25           8.     City(ies) and State(s) of residence of Injured Party at time of ingestion  
26 of the Drug(s): San Antonio, Texas

27           9.     City and State of residence of Injured Party at time of pancreatic  
28 cancer diagnosis (if different from above): \_\_\_\_\_

10. City and State of residence of Injured Party at time of diagnosis of other Injury(ies) alleged in Paragraph 5 (if different from above): \_\_\_\_\_.

11. If applicable, City and State of current residence of Injured Party (if different from above): \_\_\_\_\_.

12. If applicable, City and State of residence of Injured Party at time of death (if different from above): \_\_\_\_\_.

13. If applicable, City and State of current residence of each Plaintiff, including any Consortium and or other Plaintiff(s) (i.e., administrator, executor, guardian, representative, conservator, successor in interest): San Antonio, Texas

14. Check box(es) of product(s) (the "Drugs") for which you are making claims in this Complaint:

☒ Byetta. Dates of use: beginning in October 2008

☒ Januvia. Dates of use: beginning in 2011

☐ Janumet. Dates of use: \_\_\_\_\_.

☐ Victoza. Dates of use: \_\_\_\_\_.

15. Date of pancreatic cancer diagnosis: June 2013

16. If applicable, date of other injuries alleged in Paragraph 5: \_\_\_\_\_.

17. If applicable, date of death: \_\_\_\_\_.

**DEFENDANTS NAMED HEREIN**

(Check Defendants against whom Complaint is made)

☒ Amylin Pharmaceuticals, LLC

☒ Eli Lilly and Company

☒ Merck Sharp & Dohme Corp.

☐ Novo Nordisk Inc.

**CAUSES OF ACTION**

(Counts in the Master Complaint brought by Plaintiff(s))

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- ☒ Count I – Strict Liability – Failure to Warn
- ☒ Count II – Strict Liability – Design Defect
- ☒ Count III – Negligence
- ☒ Count IV – Breach of Implied Warranty
- ☒ Count V – Breach of Express Warranty
- ☒ Count VI – Punitive Damages
- ☐ Count VII – Loss of Consortium
- ☐ Count VIII – Wrongful Death
- ☐ Count IX – Survival Action
- ☐ Other Count(s): \_\_\_\_\_

Plead factual and legal basis for any Other Count(s) in separately numbered Paragraphs (beginning with Paragraph 18) that provide sufficient information and detail to comply with the applicable Federal Rules of Civil Procedure.

\_\_\_\_\_  
\_\_\_\_\_

**PRAYER FOR RELIEF AND, AS APPLICABLE,**

**PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH**


WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master Complaint filed in MDL No. 2452.

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**JURY DEMAND**

Plaintiff(s) hereby ☒ demands ☐ does not demand a trial by jury on all issues so triable.

Dated: January 22 \_\_\_\_\_, 2014      Respectfully submitted,

By:   
Baird A. Brown  
Law Offices of Baird A. Brown, PC  
3055 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90010  
Phone: (213) 487-8880  
Fax: (213) 487-8884  
E-mail: bairdbrownlaw@gmail.com  
Attorneys for Plaintiff